

**STATEMENT OF
COMMISSIONER KEVIN J. MARTIN**

Re: In the Matter of Policies and Rules Implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003; Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, CG Docket Nos. 04-53 and 02-278, Notice of Proposed Rulemaking in CG Docket No. 04-53 and Further Notice of Proposed Rulemaking in CG Docket No. 02-278.

I support this item which begins the process for the Commission to fulfill its statutory duties under the CAN-SPAM Act of 2003.

I write separately to express my concern that we act expeditiously on the further notice regarding the “safe harbor” for autodialed and prerecorded message calls to wireless numbers that were recently ported from a wireline to a wireless service provider. Our rules allow certain telemarketing calls to consumers, and parties making such calls do not want to inadvertently violate the law because the number in their database has recently been transferred to a wireless phone. I think this item should have gone further and incorporated the Direct Marketing Association and Newspaper Association of America’s Petition for Declaratory Ruling filed with the Commission on January 29, 2004, to fully address the industry’s concerns.